

AMENDED IN ASSEMBLY MAY 28, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY MAY 6, 2014

AMENDED IN ASSEMBLY MARCH 11, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1771

Introduced by Assembly Member V. Manuel Pérez

February 14, 2014

An act to add Section 1374.14 to the Health and Safety Code, and to add Section 10123.855 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1771, as amended, V. Manuel Pérez. Telephone visits.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Insurance Commissioner. Existing law prohibits a health care service plan or health insurer from requiring in-person contact between a health care provider and a patient before payment is made for covered services appropriately provided through telehealth, which is defined to mean the mode of delivering health care services via information and communication technologies, as specified.

This bill would require a health care service plan or a health insurer, with respect to contracts and policies issued, amended, or renewed on or after January 1, 2016, to cover telephone visits, as defined, provided

by a physician. The bill would provide that a health care service plan or a health insurer is not required to reimburse separately for specified telephone visits, including a telephone visit ~~for which reimbursement is already provided as part of a separate service or procedure, including, but not limited to, a surgical procedure~~ *provided as part of a bundle of services reimbursed on a capitated basis*. Because a willful violation of the bill's requirements by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1374.14 is added to the Health and Safety
- 2 Code, to read:
- 3 1374.14. (a) A health care service plan shall, with respect to
- 4 plan contracts issued, amended, or renewed on or after January 1,
- 5 2016, cover telephone visits provided by a physician.
- 6 (b) This section shall not be construed to authorize a health care
- 7 service plan to require the use of telephone visits when the
- 8 physician has determined that providing services by telephone is
- 9 not medically appropriate.
- 10 (c) This section shall not be construed to alter the scope of
- 11 practice of a health care provider or authorize the delivery of health
- 12 care services in a setting, or in a manner, that is not otherwise
- 13 authorized by law.
- 14 (d) All laws regarding the confidentiality of health information
- 15 and a patient's rights to his or her medical information shall apply
- 16 to telephone visits.
- 17 (e) This section shall not apply to a patient under the jurisdiction
- 18 of the Department of Corrections and Rehabilitation or any other
- 19 correctional facility.
- 20 (f) Notwithstanding subdivision (a), a health care service plan
- 21 shall not be required to reimburse separately for any of the
- 22 following:

1 (1) A telephone visit that is related to a service or procedure
2 provided to an established patient within a reasonable period of
3 time prior to the telephone visit, as recognized by the American
4 Medical Association, Current Procedural Terminology codes or
5 defined by the plan codes.

6 (2) A telephone visit that leads to a related service or procedure
7 provided to an established patient within a reasonable period of
8 time, *or within an applicable postoperative period*, as recognized
9 by the American Medical Association, Current Procedural
10 Terminology codes or defined by the plan.

11 ~~(3) A telephone visit for which reimbursement is already~~
12 ~~provided as part of a separate service or procedure, including, but~~
13 ~~not limited to, a surgical procedure.~~

14 ~~(4)~~
15 (3) A telephone visit provided as part of a bundle of services
16 for which reimbursement is provided for on a capitated or prepaid
17 basis.

18 ~~(5)~~

19 (4) A telephone visit that is not initiated by the patient.
20 (g) Nothing in this section shall be construed to prohibit a health
21 care service plan from requiring *reasonable* documentation specific
22 to telephone visits.

23 (h) For purposes of this section, the following definitions apply:

24 (1) “Established patient” means a patient ~~for whom face-to-face~~
25 ~~services have been provided by the physician practice prior to the~~
26 ~~telephone visit.~~ *who, within the three years immediately preceding*
27 *the telephone visit, has received professional services from the*
28 *provider or another provider of the exact same specialty and*
29 *subspecialty who belongs to the same group practice.*

30 (2) “Telephone visit” means evaluation and management
31 services that meets all of the following criteria:

32 (A) Do not require a face-to-face visit with the physician.

33 (B) Are provided remotely through live voice communication
34 to an established patient, or parents or guardians of a minor who
35 is an established patient.

36 (C) Are initiated by the patient, or the parents or guardians of
37 a minor who is a patient. For purposes of this section, “initiated
38 by the patient” excludes a visit for which a provider or staff
39 contacts a patient to initiate a service.

(D) Are recognized by the American Medical Association, Current Procedural Terminology codes.

SEC. 2. Section 10123.855 is added to the Insurance Code, to read:

10123.855. (a) A health insurer shall, with respect to policies of health insurance issued, amended, or renewed on or after January 1, 2016, cover telephone visits provided by a physician.

(b) This section shall not be construed to authorize a health insurer to require the use of telephone visits when the physician has determined that providing services by telephone is not medically appropriate.

(c) This section shall not be construed to alter the scope of practice of a health care provider or authorize the delivery of health care services in a setting, or in a manner, that is not otherwise authorized by law.

(d) All laws regarding the confidentiality of health information and a patient's rights to his or her medical information shall apply to telephone visits.

(e) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(f) Notwithstanding subdivision (a), a health insurer shall not be required to reimburse separately for any of the following:

(1) A telephone visit that is related to a service or procedure provided to an established patient within a reasonable period of time prior to the telephone visit, as recognized by the American Medical Association, Current Procedural Terminology codes or defined by the policy codes.

(2) A telephone visit that leads to a related service or procedure provided to an established patient within a reasonable period of time, *or within an applicable postoperative period*, as recognized by the American Medical Association, Current Procedural Terminology codes or defined by the policy.

~~(3) A telephone visit for which reimbursement is already provided as part of a separate service or procedure, including, but not limited to, a surgical procedure.~~

~~(4)~~

(3) A telephone visit provided as part of a bundle of services for which reimbursement is provided for on a capitated or prepaid basis.

1 ~~(5)~~

2 (4) A telephone visit that is not initiated by the patient.

3 (g) Nothing in this section shall be construed to prohibit a health
4 insurer from requiring *reasonable* documentation specific to
5 telephone visits.

6 (h) For purposes of this section, the following definitions apply:

7 (1) “Established patient” means a patient ~~for whom face-to-face~~
8 ~~services have been provided by the physician practice prior to the~~
9 ~~telephone visit.~~ *who, within the three years immediately preceding*
10 *the telephone visit, has received professional services from the*
11 *provider or another provider of the exact same specialty and*
12 *subspecialty who belongs to the same group practice.*

13 (2) “Telephone visit” means evaluation and management
14 services that meets all of the following criteria:

15 (A) Do not require a face-to-face visit with the physician.

16 (B) Are provided remotely through live voice communication
17 to an established patient, or parents or guardians of a minor who
18 is an established patient.

19 (C) Are initiated by the patient, or the parents or guardians of
20 a minor who is a patient. For purposes of this section, “initiated
21 by the patient” excludes a visit for which a provider or staff
22 contacts a patient to initiate a service.

23 (D) Are recognized by the American Medical Association,
24 Current Procedural Terminology codes.

25 SEC. 3. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.